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## **Attorney General's Office to Defend Death Sentence at U.S. Supreme Court**

(Phoenix, Ariz. – Jan. 8, 2007) The U.S. Supreme Court will hear oral arguments on Tuesday, January 9, in an Arizona case regarding the death sentence of Jeffrey Landrigan.

Arizona Assistant Attorney General Kent Cattani will represent the State of Arizona in this case. He will argue that the Ninth U.S. Circuit Court of Appeals erred in reversing a district court decision and ordering an evidentiary hearing regarding Landrigan's claims. Arizona Attorney General Terry Goddard will also represent the State.

### **Background**

In December 1989, shortly after escaping from an Oklahoma Department of Corrections facility where he was serving prison terms for a 1982 murder and a 1986 prison stabbing, Jeffrey Landrigan murdered Chester Dean Dyer. A Phoenix jury subsequently found Landrigan guilty of murder, burglary and theft. Following a sentencing hearing at which he instructed his attorney not to present mitigating evidence, Landrigan was sentenced to death.

Landrigan appealed his sentence to the Arizona Supreme Court, and the Court affirmed the trial court's decision. Landrigan then filed petitions for post-conviction relief in state court and sought relief in federal court. The State courts rejected Landrigan's claims. Likewise, the federal district court rejected Landrigan's request for relief, which was initially affirmed by a three-judge panel of the Ninth U.S. Circuit Court of Appeals. The Ninth Circuit, however, granted Landrigan's request for further review. In a 9-2 decision issued in March 2006, the Ninth Circuit reversed the district court decision and ordered an evidentiary hearing regarding Landrigan's claim that he received ineffective assistance of counsel. The United States Supreme Court granted the State of Arizona's petition to review this decision.

### **Questions before the Supreme Court**

There are two questions the U.S. Supreme Court will consider:

- In light of the highly deferential standard of review required under the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA), did the Ninth Circuit err by holding that the state court unreasonably determined the facts when it found that Jeffrey Landrigan "instructed his attorney not to present any mitigating evidence at the sentencing hearing?"

- Did the Ninth Circuit err by finding that the state court's analysis of Landrigan's ineffective assistance of counsel claim was objectively unreasonable under *Strickland v. Washington*, 466 U.S. 668 (1984)? Did the Ninth Circuit make this decision despite the absence of any contrary authority from this Court in cases in which (a) the defendant waives presentation of mitigation evidence and impedes counsel's attempts to do so, or (b) the evidence the defendant subsequently claims should have been presented is not mitigating?

A detailed summary of the case is attached.

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